

DATE

Ms. Sarah Nash
PilieroMazza PLLC
888 17th Street NW, 11th Floor
Washington, DC 20006

**Re: Docket No. 2022-076
Advisory Opinion**

Dear Ms. Nash:

The Louisiana Board of Ethics, at its May 6, 2022 meeting, considered your request on behalf of RoyaltyStat, LLC, a Maryland limited liability company ("RoyaltyStat") for an advisory opinion as to whether a former employee of the Louisiana Department of Revenue ("LDR") may provide services to RoyaltyStat relating to certain transactions with LDR.

FACTS PROVIDED

Ms. Casey Fontenot is a former employee of LDR. Ms. Fontenot served as a Revenue Tax Auditor for three years in the Field Audit Income Tax Division of LDR, and then served an additional year as a Revenue Tax Auditor Supervisor. In her role as a supervisor, her duties included accompanying auditors in their meetings with taxpayers, assigning case inventory, monitoring performance standards, conducting performance evaluations, and supervising audit procedures. The supervisor role is expressly designed to be an assistant to the Revenue Tax Director over a team of auditors in a defined geographical area. Ms. Fontenot's employment with LDR ended in January 2022.

RoyaltyStat would like to hire Ms. Fontenot to provide certain services relating to transfer pricing, including certain matters related to LDR. Ms. Fontenot would not be performing any services on any matters she was involved in with LDR and would not be performing the same services she provided for LDR.

LAW

La. R.S. 42:1121B provides that no former public employee shall (1) for a period of two years following the termination of his public employment, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction in which such former public employee participated at any time during his public employment and involving the governmental entity by which he was formerly employed, or (2) for a period of two years following the termination of his public employment, render, any service which such former public employee had

rendered to the agency during the term of his public employment on a contractual basis, regardless of the parties to the contract, to, for, or on behalf of the agency with which he was formerly employed.

La. R.S. 42:1102(3) defines “agency head” to mean the chief executive or administrative officer of an agency or any member of a board or commission who exercises supervision over the agency.

La. R.S. 42:1102(18)(a) defines “public employee” to mean anyone, whether compensated or not, who is (i) an administrative officer or official of a governmental entity who is not filling an elective office; (ii) appointed by any elected official when acting in an official capacity, and the appointment is to a post or position wherein the appointee is to serve the governmental entity or an agency thereof, either as a member of an agency, or as an employee thereof; (iii) engaged in the performance of a governmental function; (iv) under the supervision or authority of an elected official or another employee of the governmental entity.

ANALYSIS

As a Revenue Tax Auditor Supervisor for LDR, Ms. Fontenot was a public employee under La. R.S. 42:1102(18)(a). Further, as the assistant to the Revenue Tax Director, she was not the chief executive or administrative officer of her agency, so she did not qualify as an agency head under La. R.S. 42:1102(3). Accordingly, as she was not the head of an agency or an elected official, the post-employment assistance rule for all other public employees, La. R.S. 42:1121B, shall apply. Accordingly, for a period of two years after her termination of service to LDR, Ms. Fontenot may not assist any person in transactions involving your agency in which she participated during her employment with LDR or provide any services she provided as an employee of LDR.

CONCLUSION

The Board concluded, and instructed me to inform you, that the Code of Governmental Ethics would permit Ms. Fontenot to provide services to RoyaltyStat which may relate to LDR matters provided Ms. Fontenot did not participate in those matters during her employment with LDR and did not perform those services for LDR.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Louisiana Code of Governmental Ethics. The Board issues no opinion as to past conduct or as to laws other than the Louisiana Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Acts, and the conflict of interest provisions contained in the Louisiana Gaming Control Law. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,

LOUISIANA BOARD OF ETHICS

Charles E. Reeves, Jr.
For the Board

Cc: Ms. Casey Fontenot

DISCLAIMER
This is a draft opinion and it is **NOT** an opinion of the Louisiana Board of Ethics.
No party may rely on the facts or conclusions. The analysis and conclusions herein are provided for discussion purposes only, and are subject to change or revision at the meeting of the Board of Ethics at which this matter is considered.